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09/364,375	07/30/1999	RONEN CHAYAT	ITL.0151US (P6593)	9363
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EXAMINER				
AUGUSTIN, EVENS J				
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/364,375
Filing Date: July 30, 1999
Appellant(s): CHAYAT, RONEN

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on December 21st, 2007 appealing from the Office action mailed on November 1st, 2007

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5343473	Cidon	8-1992
6222841	Taniguchi	5-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 6-15, 17-26 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cidon et al., U.S. Patent No. 5,343,473 in view of Taniguchi, U.S. Patent No. 6,222,841.
- A. As per claims 1-4, 6-15, 17-26 and 28-30, Cidon et al. teach receiving packets of at least two types, determining which type of packet takes more time to process, identifying a packet of lower priority (e.g. a first type) that takes more time to process, identifying a packet of a higher priority (e.g. second type) that takes of the higher priority (e.g. less time to process) and,
- B. Transmitting packets of the lower priority (e.g. second type) before packets of the first type (column 1, lines 50-53; column 4, lines 5-30; column 8, lines 13-16).
- C. Cidon et al. also teach FIFO (column 1, lines 61-65), monitoring a queue in order to

- fetch one type of packet over another (column 1, lines 50-53; column 8, lines 13-16).
- Regarding linking packets (e.g. claim 7) it is inherent to packet switching that data to be transmitted from a sending node over a network is broken up into packets, the
- D. Packets are routed along different paths on the network, and reassembled at receiving node. In order to be reassembled, the packets are necessarily linked.
2. Cidon et al. do not explicitly recite how high priority is assigned. Taniguchi teaches a method for transmitting data packets across a network (abstract), based on a priority (figure 14; column/line 16/19-17/17; column/line 22/18-23/6) such as processing time (e.g. packet size, number of transmitted bytes) (column/line 18/62-19/8) or other user defined parameter (column 4, lines 3-10; column 16, lines 18-33; column 18, lines 14-32).
3. Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Cidon et al. and Taniguchi in order more effectively distribute audio and video data over a packet switching network ('841, column 7, lines 5-15).

(10) Response to Argument

The 112 rejection has been withdrawn.

Argument 1: Prior art "do not explicitly recite how priority is assigned."

Response 1: Cidon et al. do not explicitly recite how high priority is assigned. Taniguchi teaches a method for transmitting data packets across a network (abstract), based on a priority (figure 14; column/line 16/19-17/17; column/line 22/18-23/6) **such as**

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processing time (e.g. packet size, number of transmitted bytes) (column/line 18/62-19/8) or other user defined parameter (column 4, lines 3-10; column 16, lines 18-33; column 18, lines 14-32).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Evans Augustin
Art Unit 3621
March 28, 2008

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